

NOT FOR CITATION

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

| | | |
|---------------------------------|---|---------------------------|
| EDJUAN C. SCOTT, |) | No. C 09-00862 JF (PR) |
| Plaintiff, |) | ORDER OF DISMISSAL |
| vs. |) | |
| PITTSBURG POLICE DEPT., et al., |) | |
| Defendant(s). |) | (Docket Nos. 2, 5, 6 & 7) |
| _____ |) | |

Plaintiff, a pretrial detainee at the Martinez Detention Facility, has filed a civil rights complaint. Plaintiff has also filed an application to proceed in forma pauperis. Plaintiff's complaint appears identical to the complaint filed in a prior case before this Court: Case No. C 09-00720 JF (PR), which is currently pending in this Court. Therefore, the instant case is DISMISSED as duplicative of Plaintiff's earlier filed complaint.

DISCUSSION

I. Standard of Review

Federal courts must engage in a preliminary screening of cases in which

1 prisoners seek redress from a governmental entity or officer or employee of a
 2 governmental entity. 28 U.S.C. § 1915A(a). The Court must identify cognizable
 3 claims or dismiss the complaint, or any portion of the complaint, if the complaint “is
 4 frivolous, malicious, or fails to state a claim upon which relief may be granted,” or
 5 “seeks monetary relief from a defendant who is immune from such relief.” Id. §
 6 1915A(b). Pro se pleadings must be liberally construed, however. Balistreri v.
 7 Pacifica Police Dep’t, 901 F.2d 696, 699 (9th Cir. 1990).

8 II. Legal Claims

9 In his complaint, Plaintiff alleges that Defendants were negligent and acted
 10 with “complete disregard for [Plaintiff’s] well being and safety” during the course of
 11 his arrest for alleged crimes. (Compl. 4-5.) He seeks compensatory damages for the
 12 resulting post traumatic stress and chest and head pains. (Id. at 3.) Plaintiff’s claims
 13 are essentially identical to those stated his earlier complaint under Case No. C
 14 09-00720 JF (PR).

15 A complaint that merely repeats pending or previously litigated claims may
 16 be dismissed under the authority of 28 U.S.C. § 1915. Cato v. United States, 70
 17 F.3d 1103, 1105 n.2 (9th Cir. 1995); Bailey v. Johnson, 846 F.2d 1019, 1021 (5th
 18 Cir. 1988). This action is duplicative of an earlier complaint filed in this Court that
 19 is currently pending. As such, Plaintiff’s complaint is DISMISSED as duplicative
 20 and for failure to state a claim for relief.

22 CONCLUSION

23 For the foregoing reasons, Plaintiff’s action is DISMISSED for failure to
 24 state a claim upon which relief may be granted. 28 U.S.C. § 1915A.

25 The Clerk shall terminate all pending motions as moot.

26 IT IS SO ORDERED.

27 DATED: 5/12/09

28 
 JEREMY FOGEL
 United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

EDJUAN C. SCOTT,
Plaintiff,

Case Number: CV09-00862 JF

CERTIFICATE OF SERVICE

v.

PITTSBURG POLICE DEPT., et al.,
Defendants.

_____/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 5/15/09, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Edjuan C. Scott CC08AD969
Martinez Detention Facility
901 Court Street
D-Module #27
Martinez, CA 94553

Dated: 5/15/09

Richard W. Wieking, Clerk